

CAPITAL FACILITIES REVISIONS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rebecca P. Edwards

Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill modifies provisions related to the Department of Heritage and Arts.

Highlighted Provisions:

This bill:

- defines pass-through funding;
- provides department duties related to pass-through funding;
- removes references and certain requirements related to pass-through funding and capital facilities grants; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

9-1-102, as last amended by Laws of Utah 2012, Chapter 212

9-1-201, as last amended by Laws of Utah 2014, Chapter 371

9-6-102, as last amended by Laws of Utah 2012, Chapter 212

9-6-201, as last amended by Laws of Utah 2015, Chapter 350

9-6-205, as last amended by Laws of Utah 2014, Chapter 189

9-6-603, as last amended by Laws of Utah 2010, Chapter 111

9-6-605, as last amended by Laws of Utah 2012, Chapter 212

30 9-7-101, as last amended by Laws of Utah 2010, Chapter 111

31 9-7-203, as last amended by Laws of Utah 2010, Chapter 111

32 9-7-205, as last amended by Laws of Utah 2010, Chapter 111

33 9-8-102, as last amended by Laws of Utah 2010, Chapter 111

34 9-8-203, as last amended by Laws of Utah 2014, Chapter 123

35 9-8-205, as last amended by Laws of Utah 2010, Chapter 111

37 *Be it enacted by the Legislature of the state of Utah:*

38 Section 1. Section 9-1-102 is amended to read:

39 **9-1-102. Definitions.**

40 As used in this title:

41 ~~[(2)]~~ (1) "Department" means the Department of Heritage and Arts.

42 ~~[(1)]~~ (2) "Executive director" means the executive director of the Department of
43 Heritage and Arts.

44 (3) (a) "Pass-through funding" means funding from an appropriation by the Legislature
45 to a state agency that is intended to be passed through the state agency to:

46 (i) a government or local government entity;

47 (ii) a private entity, including a not-for-profit entity; or

48 (iii) a person in the form of a loan or a grant.

49 (b) The funding may come from general funds, federal funds, dedicated credits, or a
50 combination of funding sources.

51 Section 2. Section 9-1-201 is amended to read:

52 **9-1-201. Department of Heritage and Arts -- Creation -- Powers and duties.**

53 (1) There is created the Department of Heritage and Arts.

54 (2) The department shall:

55 (a) be responsible for preserving and promoting the heritage of the state, the arts in the
56 state, and cultural development within the state;

57 (b) perform heritage, arts, and cultural development planning for the state;

- 58 (c) coordinate the program plans of the various divisions within the department;
- 59 (d) administer and coordinate all state or federal grant programs which are, or become,
- 60 available for heritage, arts, and cultural development;
- 61 (e) administer any other programs over which the department is given administrative
- 62 supervision by the governor;
- 63 (f) submit an annual written report to the governor and the Legislature as described in
- 64 Section 9-1-208; and
- 65 (g) perform any other duties as provided by the Legislature.

66 (3) The department may solicit and accept contributions of money, services, and

67 facilities from any other sources, public or private, but may not use those contributions for

68 publicizing the exclusive interest of the donor.

69 (4) Money received under Subsection (3) shall be deposited in the General Fund as

70 restricted revenues of the department.

71 (5) (a) For a pass-through funding grant of \$25,000 or more, the department shall make

72 quarterly disbursements to the pass-through funding grant recipient, contingent upon the

73 department receiving a quarterly progress report from the pass-through funding grant recipient.

74 (b) The department shall:

75 (i) provide the pass-through funding grant recipient with a progress report form for the

76 reporting purposes described in Subsection (5)(a); and

77 (ii) include reporting requirement instructions with the form.

78 Section 3. Section 9-6-102 is amended to read:

79 **9-6-102. Definitions.**

80 As used in this chapter:

81 (1) "Advisory board" means the Museum Services Advisory Board created in Section

82 9-6-604.

83 (2) "Board" means the Board of Directors of the Utah Arts Council created in Section

84 9-6-204.

85 (3) "Council" means the Utah Arts Council created in Section 9-6-301.

(4) "Director" means the director of the Division of Arts and Museums.

(5) "Division" means the Division of Arts and Museums.

(6) "Museum" means an organized and permanent institution that:

(a) is owned or controlled by the state, a county, or a municipality, or is a nonprofit organization;

(b) has an educational or aesthetic purpose;

(c) owns or curates a tangible collection; and

(d) exhibits the collection to the public on a regular schedule.

(7) "Office" means the Office of Museum Services created in Section 9-6-602.

~~[(8) (a) "Pass-through funding" means funds appropriated by the Legislature to a state agency that are intended to be passed through the state agency to:]~~

~~[(i) local governments;]~~

~~[(ii) other government agencies;]~~

~~[(iii) private organizations, including not-for-profits, or]~~

~~[(iv) persons in the form of a loan or grant.]~~

~~[(b) The funding may be:]~~

~~[(i) general funds, federal funds, dedicated credits, or any combination of funding sources; and]~~

~~[(ii) ongoing or one-time.]~~

Section 4. Section 9-6-201 is amended to read:

9-6-201. Division of Arts and Museums -- Creation -- Powers and duties.

(1) There is created within the department the Division of Arts and Museums under the administration and general supervision of the executive director or the designee of the executive director.

(2) The division shall be under the policy direction of the board.

(3) The division shall advance the interests of the arts, in all their phases, within the state, and to that end shall:

(a) cooperate with and locally sponsor federal agencies and projects directed to similar

undertakings;

(b) develop the influence of arts in education;

(c) involve the private sector, including businesses, charitable interests, educational interests, manufacturers, agriculturalists, and industrialists in these endeavors;

(d) utilize broadcasting facilities and the power of the press in disseminating information; and

(e) foster, promote, encourage, and facilitate, not only a more general and lively study of the arts, but take all necessary and useful means to stimulate a more abundant production of an indigenous art in this state.

(4) The board shall set policy to guide the division in accomplishing the purposes set forth in Subsection (3).

(5) Except for arts development projects under Section 9-6-804, the division may not grant funds for the support of any arts project under this section unless the project has been first approved by the board.

~~[(6)(a) For a pass-through funding grant of at least \$25,000, the division shall make quarterly disbursements to the pass-through funding grant recipient, contingent upon the division receiving a quarterly progress report from the pass-through grant recipient.]~~

~~[(b) The division shall:]~~

~~[(i) provide the pass-through grant recipient with a progress report form for the reporting purposes of Subsection (6)(a); and]~~

~~[(ii) include reporting requirement instructions with the form.]~~

Section 5. Section 9-6-205 is amended to read:

9-6-205. Board powers and duties.

(1) The board may:

(a) make, amend, or repeal rules for the conduct of its business in governing the council in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) receive gifts, bequests, and property; and

(c) issue certificates and offer and confer prizes, certificates, and awards for works of

142 art and achievement in the arts.

143 (2) The board shall make policy for the council.

144 ~~[(3) (a) By September 30 of each year, the board shall prepare and submit a request to~~
145 ~~the governor and the Legislature for prioritized capital facilities grants to be awarded to eligible~~
146 ~~individuals and organizations under this part, Part 3, Utah Arts Council, Part 4, Utah~~
147 ~~Percent-for-Art Act, and Part 5, State Arts Endowment.]~~

148 ~~[(b) The board shall prepare a list of the requested capital facilities grants in a~~
149 ~~prioritized order and include a written explanation of:]~~

150 ~~[(i) the total grant amount requested in the list; and]~~

151 ~~[(ii) the basis of its prioritization of requested grants on the list.]~~

152 ~~[(c) The board shall accept applications for capital facilities grants through June 1 of~~
153 ~~each year, prior to compiling and submitting its yearly request to the governor and the~~
154 ~~Legislature under Subsection (3)(a).]~~

155 Section 6. Section **9-6-603** is amended to read:

156 **9-6-603. Duties of office.**

157 ~~[(1)]~~ The office shall:

158 ~~[(a)]~~ (1) recommend to the Museum Services Advisory Board:

159 ~~[(i)]~~ (a) policies regarding:

160 ~~[(A)]~~ (i) a grants program; and

161 ~~[(B)]~~ (ii) the equitable dissemination of office technical assistance; and

162 ~~[(ii)]~~ (b) guidelines for determining eligibility for office grants;

163 ~~[(b)]~~ (2) advise state and local government agencies and employees regarding museum
164 related issues, including museum capital development projects;

165 ~~[(c)]~~ (3) provide to Utah museums technical advice and information about sources of
166 direct technical assistance;

167 ~~[(d)]~~ (4) assist and advise Utah museums in locating sources of training for ~~[their]~~
168 museum staff members;

169 ~~[(e)]~~ (5) develop and coordinate programs, workshops, seminars, and similar activities

designed to provide training for staff members of Utah museums;

~~[(f)]~~ (6) undertake scholarly research as necessary to understand the training needs of the museum community and to assess how those needs could best be met;

~~[(g)]~~ (7) administer a state Museum Grant Program to assist eligible Utah museums; and

~~[(h)]~~ (8) establish a program by January 1, 2009, by rule, creating a certified local museum designation, including any provisions necessary to ensure public confidence in charitable solicitation undertaken by a certified local museum.

~~[(2)(a) For a pass-through funding grant of at least \$25,000, the office shall make quarterly disbursements to the pass-through funding grant recipient, contingent upon the office receiving a quarterly progress report from the pass-through grant recipient.]~~

~~[(b) The office shall:]~~

~~[(i) provide the pass-through grant recipient with a progress report form for the reporting purposes of Subsection (2)(a); and]~~

~~[(ii) include reporting requirement instructions with the form.]~~

Section 7. Section **9-6-605** is amended to read:

9-6-605. Advisory board -- Duties.

(1) The advisory board is the policymaking body for the office.

(2) The advisory board shall, in consultation with the director of the office:

(a) set policies and, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules governing:

(i) the office grants program; and

(ii) the awarding of grants to assist Utah's eligible museums; and

(b) set eligibility guidelines for grants administered through the office.

~~[(3)(a) By September 30 of each year, the advisory board shall prepare and submit a request to the governor and the Legislature for prioritized capital facilities grants to be awarded to eligible museums under this part.]~~

~~[(b) The advisory board shall prepare a list of the requested capital facilities grants in a~~

198 ~~prioritized order and include a written explanation of:]~~

199 ~~[(i) the total grant amount requested in the list; and]~~

200 ~~[(ii) the basis of its prioritization of requested grants on the list.]~~

201 ~~[(c) The advisory board shall accept applications for capital facilities grants through~~
202 ~~June 1 of each year, prior to compiling and submitting its yearly request to the governor and the~~
203 ~~Legislature under Subsection (3)(a).]~~

204 Section 8. Section **9-7-101** is amended to read:

205 **9-7-101. Definitions.**

206 As used in this chapter:

207 (1) "Division" means the State Library Division.

208 (2) "Library board" means the library board of directors appointed locally as authorized
209 by Section 9-7-402 or 9-7-502 and which exercises general policy authority for library services
210 within a city or county of the state, regardless of the title by which [it] the board is known
211 locally.

212 ~~[(3) (a) "Pass-through funding" means funds appropriated by the Legislature to a state~~
213 ~~agency that are intended to be passed through the state agency to:]~~

214 ~~[(i) local governments;]~~

215 ~~[(ii) other government agencies;]~~

216 ~~[(iii) private organizations, including not-for-profits; or]~~

217 ~~[(iv) persons in the form of a loan or grant.]~~

218 ~~[(b) The funding may be:]~~

219 ~~[(i) general funds, federal funds, dedicated credits, or any combination of funding~~
220 ~~sources; and]~~

221 ~~[(ii) ongoing or one-time.]~~

222 ~~[(4)]~~ (3) "Physical format" means a transportable medium in which analog or digital
223 information is published, such as print, microform, magnetic disk, or optical disk.

224 ~~[(5)]~~ (4) "Policy" means the public library online access policy adopted by a library
225 board to meet the requirements of Section 9-7-215.

[~~(6)~~] (5) "Political subdivision" means a county, city, town, school district, public transit district, redevelopment agency, or special improvement or taxing district.

[~~(7)~~] (6) "State agency" means the state, an office, department, agency, authority, commission, board, institution, hospital, college, university, or other instrumentality of the state.

[~~(8)~~] (7) (a) "State publication" means a book, compilation, directory, document, contract or grant report, hearing memorandum, journal, law, legislative bill, magazine, map, monograph, order, ordinance, pamphlet, periodical, proceeding, public memorandum, resolution, register, rule, report, statute, audiovisual material, electronic publication, micrographic form and tape or disc recording regardless of format or method of reproduction, issued or published by a state agency or political subdivision for distribution.

(b) "State publication" does not include correspondence, internal confidential publications, office memoranda, university press publications, or publications of the state historical society.

Section 9. Section **9-7-203** is amended to read:

9-7-203. Division duties.

[~~(1)~~] The division shall:

[~~(a)~~] (1) establish, operate, and maintain a state publications collection, a digital library of state publications, a bibliographic control system, and depositories as provided in this part;

[~~(b)~~] (2) cooperate with:

[~~(i)~~] (a) other agencies to facilitate public access to government information through electronic networks or other means;

[~~(ii)~~] (b) other state or national libraries or library agencies; and

[~~(iii)~~] (c) the federal government or agencies in accepting federal aid whether in the form of funds or otherwise;

[~~(e)~~] (3) receive bequests, gifts, and endowments of money and deposit the funds with the state treasurer to be placed in the State Library Donation Fund, which funds shall be held for the purpose, if any, specifically directed by the donor; and

254 ~~[(d)]~~ (4) receive bequests, gifts, and endowments of property to be held, used, or
255 disposed of, as directed by the donor, with the approval of the Division of Finance.

256 ~~[(2)(a) For a pass-through funding grant of at least \$25,000, the division shall make~~
257 ~~quarterly disbursements to the pass-through funding grant recipient, contingent upon the~~
258 ~~division receiving a quarterly progress report from the pass-through grant recipient.]~~

259 ~~[(b) The division shall:]~~

260 ~~[(i) provide the pass-through grant recipient with a progress report form for the~~
261 ~~reporting purposes of Subsection (2)(a); and]~~

262 ~~[(ii) include reporting requirement instructions with the form.]~~

263 Section 10. Section **9-7-205** is amended to read:

264 **9-7-205. Duties of board and director.**

265 (1) The board shall:

266 (a) promote, develop, and organize a state library and make provisions for its housing;

267 (b) promote and develop library services throughout the state in cooperation with other
268 state or municipal libraries, schools, or other agencies wherever practical;

269 (c) promote the establishment of district, regional, or multicounty libraries as
270 conditions within particular areas of the state may require;

271 (d) supervise the books and materials of the state library and require the keeping of
272 careful and complete records of the condition and affairs of the state library;

273 (e) establish policies for the administration of the division and for the control,
274 distribution, and lending of books and materials to those libraries, institutions, groups, or
275 individuals entitled to them under this chapter;

276 (f) serve as the agency of the state for the administration of state or federal funds that
277 may be appropriated to further library development within the state;

278 (g) aid and provide general advisory assistance in the development of statewide school
279 library service and encourage contractual and cooperative relations between school and public
280 libraries;

281 (h) give assistance, advice, and counsel to all tax-supported libraries within the state

and to all communities or persons proposing to establish ~~[them]~~ a tax-supported library and conduct courses and institutes on the approved methods of operation, selection of books, or other activities necessary to the proper administration of a library;

(i) furnish or contract for the furnishing of library or information service to state officials, state departments, or any groups that in the opinion of the director warrant the furnishing of those services, particularly through the facilities of traveling libraries to those parts of the state otherwise inadequately supplied by libraries;

(j) where sufficient need exists and if the director considers it advisable, establish and maintain special departments in the state library to provide services for the blind, visually impaired, persons with disabilities, and professional, occupational, and other groups;

(k) administer a depository library program by collecting state publications, and providing a bibliographic information system;

(l) require the collection of information and statistics necessary to the work of the state library and the distribution of findings and reports;

(m) make any report concerning the activities of the state library to the governor as the governor may require; and

(n) develop standards for public libraries.

~~[(2)(a) By September 30 of each year, the board shall prepare and submit a request to the governor and the Legislature for prioritized capital facilities grants to be awarded to eligible libraries under this chapter.]~~

~~[(b) The board shall prepare a list of the requested capital facilities grants in a prioritized order and include a written explanation of:]~~

~~[(i) the total grant amount requested in the list; and]~~

~~[(ii) the basis of its prioritization of requested grants on the list.]~~

~~[(c) The board shall accept applications for capital facilities grants through June 1 of each year, prior to compiling and submitting its yearly request to the governor and Legislature under Subsection (2)(a).]~~

~~[(3)]~~ (2) The director shall, under the policy direction of the board, carry out the

responsibilities under Subsection (1).

Section 11. Section **9-8-102** is amended to read:

9-8-102. Definitions.

As used in this chapter:

(1) "Board" means the Board of State History.

(2) "Director" means the director of the Division of State History.

(3) "Division" means the Division of State History.

(4) "Documentary materials" means written or documentary information contained in published materials, manuscript collections, archival materials, photographs, sound recordings, motion pictures, and other written, visual, and aural materials, except government records.

(5) "Historical artifacts" means objects produced or shaped by human efforts, a natural object deliberately selected and used by a human, an object of aesthetic interest, and any human-made objects produced, used, or valued by the historic peoples of Utah.

~~[(6)(a) "Pass-through funding" means funds appropriated by the Legislature to a state agency that are intended to be passed through the state agency to:]~~

~~[(i) local governments;]~~

~~[(ii) other government agencies;]~~

~~[(iii) private organizations, including not-for-profits; or]~~

~~[(iv) persons in the form of a loan or grant.]~~

~~[(b) The funding may be:]~~

~~[(i) general funds, federal funds, dedicated credits, or any combination of funding sources; and]~~

~~[(ii) ongoing or one-time.]~~

~~[(7)]~~ (6) "Society" means the Utah State Historical Society.

Section 12. Section **9-8-203** is amended to read:

9-8-203. Division duties.

(1) The division shall:

(a) stimulate research, study, and activity in the field of Utah history and related

history;

(b) maintain a specialized history library;

(c) mark and preserve historic sites, areas, and remains;

(d) collect, preserve, and administer historical records relating to the history of Utah;

(e) administer, collect, preserve, document, interpret, develop, and exhibit historical artifacts, documentary materials, and other objects relating to the history of Utah for educational and cultural purposes;

(f) edit and publish historical records;

(g) cooperate with local, state, and federal agencies and schools and museums to provide coordinated and organized activities for the collection, documentation, preservation, interpretation, and exhibition of historical artifacts related to the state;

(h) promote, coordinate, and administer:

(i) Utah History Day at the Capitol designated under Section 63G-1-401; and

(ii) the Utah History Day program affiliated with National History Day, which includes a series of regional, state, and national activities and competitions for students from grades 4 through 12;

(i) provide grants and technical assistance as necessary and appropriate; and

(j) comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in [its] adjudicative proceedings.

(2) The division may acquire or produce reproductions of historical artifacts and documentary materials for educational and cultural use.

(3) To promote an appreciation of Utah history and to increase heritage tourism in the state, the division shall:

(a) (i) create and maintain an inventory of all historic markers and monuments that are accessible to the public throughout the state;

(ii) enter into cooperative agreements with other groups and organizations to collect and maintain the information needed for the inventory;

(iii) encourage the use of volunteers to help collect the information and to maintain the

366 inventory;

367 (iv) publicize the information in the inventory in a variety of forms and media,

368 especially to encourage Utah citizens and tourists to visit the markers and monuments;

369 (v) work with public and private landowners, heritage organizations, and volunteer

370 groups to help maintain, repair, and landscape around the markers and monuments; and

371 (vi) make the inventory available upon request to all other public and private history

372 and heritage organizations, tourism organizations and businesses, and others;

373 (b) (i) create and maintain an inventory of all active and inactive cemeteries throughout

374 the state;

375 (ii) enter into cooperative agreements with local governments and other groups and

376 organizations to collect and maintain the information needed for the inventory;

377 (iii) encourage the use of volunteers to help collect the information and to maintain the

378 inventory;

379 (iv) encourage cemetery owners to create and maintain geographic information systems

380 to record burial sites and encourage volunteers to do so for inactive and small historic

381 cemeteries;

382 (v) publicize the information in the inventory in a variety of forms and media,

383 especially to encourage Utah citizens to participate in the care and upkeep of historic

384 cemeteries;

385 (vi) work with public and private cemeteries, heritage organizations, genealogical

386 groups, and volunteer groups to help maintain, repair, and landscape cemeteries, grave sites,

387 and tombstones; and

388 (vii) make the inventory available upon request to all other public and private history

389 and heritage organizations, tourism organizations and businesses, and others; and

390 (c) (i) create and maintain a computerized record of cemeteries and burial locations in a

391 state-coordinated and publicly accessible information system;

392 (ii) gather information for the information system created and maintained under

393 Subsection (3)(c)(i) by providing matching grants, upon approval by the board, to:

394 (A) municipal cemeteries;
395 (B) cemetery maintenance districts;
396 (C) endowment care cemeteries;
397 (D) private nonprofit cemeteries;
398 (E) genealogical associations; and
399 (F) other nonprofit groups with an interest in cemeteries; and
400 (iii) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative
401 Rulemaking Act, for granting matching funds under Subsection (3)(c)(ii) to ensure that:
402 (A) professional standards are met; and
403 (B) projects are cost effective.
404 ~~[(4)(a) For a pass-through funding grant of at least \$25,000, the division shall make~~
405 ~~quarterly disbursements to the pass-through funding grant recipient, contingent upon the~~
406 ~~division receiving a quarterly progress report from the pass-through grant recipient.]~~
407 ~~[(b) The division shall:]~~
408 ~~[(i) provide the pass-through grant recipient with a progress report form for the~~
409 ~~reporting purposes of Subsection (4)(a); and]~~
410 ~~[(ii) include reporting requirement instructions with the form.]~~
411 ~~[(5)]~~ (4) This chapter may not be construed to authorize the division to acquire by
412 purchase any historical artifacts, documentary materials, or specimens that are restricted from
413 sale by federal law or the laws of any state, territory, or foreign nation.
414 Section 13. Section **9-8-205** is amended to read:
415 **9-8-205. Board duties and powers.**
416 (1) The board shall:
417 (a) make policies to direct the division director in carrying out the director's duties;
418 (b) approve the division's rules;
419 (c) assist the division in development programs consistent with this chapter;
420 (d) function as the State Review Board for purposes of the historic preservation
421 program;

(e) recommend districts, sites, buildings, structures, and objects for listing on the State and National Historic Registers to the director; and

(f) review and approve, if appropriate, matching grants under Subsection

~~9-8-203(3)(c)(ii)[, and].~~

~~[(g) function as the board of the society.]~~

~~[(2) (a) By September 30 of each year, the board shall prepare and submit a request to the governor and the Legislature for prioritized capital facilities grants to be awarded to eligible institutions under this chapter.]~~

~~[(b) The board shall prepare a list of the requested capital facilities grants in a prioritized order and include a written explanation of:]~~

~~[(i) the total grant amount requested in the list; and]~~

~~[(ii) the basis of its prioritization of requested grants on the list.]~~

~~[(c) The board shall accept applications for capital facilities grants by June 1 of each year, prior to compiling and submitting its yearly request to the governor and Legislature under Subsection (2)(a).]~~

~~[(3)]~~ (2) The board may establish advisory committees to assist [it] the board and the division in carrying out ~~[their]~~ the responsibilities under this chapter.